

CHAPTER 111

TAXATION

HOUSE BILL 98-1271

BY REPRESENTATIVES Spradley, C. Berry, George, Hefley, Lawrence, Pfiffner, and Young;
also SENATORS Dennis, Ament, Bishop, Chlouber, Feeley, Matsunaka, Norton, Rizzuto, and Tebedo.

AN ACT

CONCERNING THE STATE ESTATE TAX.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-23.5-102 (5.5) and (13.6), Colorado Revised Statutes, are amended to read:

39-23.5-102. Definitions. As used in this article, unless the context otherwise requires:

(5.5) "Federal additional estate tax return" means ~~the~~ ANY federal estate tax return with respect to DESIGNATED FOR REPORTING THE recapture of estate tax under section 2032A of the internal revenue code, THE ADDITIONAL ESTATE TAX IMPOSED FOR FAILURE TO MATERIALLY PARTICIPATE IN A BUSINESS, DISPOSITIONS OF INTERESTS, OR OTHER NONCOMPLIANCE UNDER SECTION 2033A OF THE INTERNAL REVENUE CODE, AND THE ADDITIONAL ESTATE TAX IMPOSED FOR FAILURE TO IMPLEMENT THE AGREEMENT UNDER SECTION 2031 OF THE INTERNAL REVENUE CODE.

(13.6) "Qualified heir" means a qualified heir as defined in section 2032A (e)(1) of the internal revenue code OR AS DEFINED IN SECTION 2033A (i)(1) OF THE INTERNAL REVENUE CODE IF THE FAMILY-OWNED BUSINESS EXCLUSION PROVISIONS OF THE INTERNAL REVENUE CODE ARE APPLICABLE.

SECTION 2. 39-23.5-107, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

39-23.5-107. Tax returns - date to be filed - extension. (8) ANY PERSON WHO MAKES A FAMILY-OWNED BUSINESS EXCLUSION ELECTION IN A FEDERAL RETURN AND WHO IS REQUIRED TO FILE A FEDERAL ADDITIONAL ESTATE TAX RETURN AS A RESULT OF FAILURE TO MATERIALLY PARTICIPATE IN THE BUSINESS, DISPOSITION OF INTEREST, OR OTHER NONCOMPLIANCE WITH THE REQUIREMENTS OF SECTION 2033A OF THE INTERNAL REVENUE CODE SHALL FILE WITH THE DEPARTMENT ON OR BEFORE THE DATE THE FEDERAL ADDITIONAL ESTATE TAX RETURN IS REQUIRED TO BE FILED:

- (a) A COLORADO RETURN FOR THE ESTATE TAX DUE UNDER THIS ARTICLE; AND
- (b) A TRUE AND CORRECT COPY OF THE FEDERAL ADDITIONAL ESTATE TAX RETURN.

(9) ANY PERSON WHO ELECTS A QUALIFIED CONSERVATION EASEMENT EXCLUSION IN A FEDERAL RETURN AS ALLOWED UNDER SECTION 2031 OF THE INTERNAL REVENUE CODE AND WHO IS REQUIRED TO FILE A FEDERAL ADDITIONAL ESTATE TAX RETURN AS A RESULT OF FAILURE TO IMPLEMENT THE AGREEMENT DESCRIBED IN SECTION 2031 OF THE INTERNAL REVENUE CODE SHALL FILE WITH THE DEPARTMENT ON OR BEFORE THE DATE THE FEDERAL ADDITIONAL ESTATE TAX RETURN IS REQUIRED TO BE FILED:

- (a) A COLORADO RETURN FOR THE ESTATE TAX DUE UNDER THIS ARTICLE; AND
- (b) A TRUE AND CORRECT COPY OF THE FEDERAL ADDITIONAL ESTATE TAX RETURN.

SECTION 3. 39-23.5-109 (2), Colorado Revised Statutes, is amended, and the said 39-23.5-109 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

39-23.5-109. Interest. (2) If a special use valuation election was made in a federal return and thereafter ADDITIONAL Colorado ~~additional~~ estate tax is due as a result of a premature disposition of property or premature cessation of the qualified use, interest shall accrue from the due date of the federal additional estate tax return regardless of any federal extension of time for payment.

(3) IF A QUALIFIED FAMILY-OWNED BUSINESS EXCLUSION ELECTION WAS MADE IN A FEDERAL RETURN AND THEREAFTER ADDITIONAL COLORADO ESTATE TAX IS DUE AS A RESULT OF FAILURE TO MATERIALLY PARTICIPATE IN THE BUSINESS, DISPOSITION OF INTERESTS, OR OTHER NONCOMPLIANCE WITH THE REQUIREMENTS OF SECTION 2033A OF THE INTERNAL REVENUE CODE, INTEREST SHALL ACCRUE FROM THE DUE DATE OF THE FEDERAL ADDITIONAL ESTATE TAX RETURN REGARDLESS OF ANY FEDERAL EXTENSION OF TIME FOR PAYMENT.

(4) IF A QUALIFIED CONSERVATION EASEMENT ELECTION WAS MADE ON A FEDERAL RETURN AND THEREAFTER ADDITIONAL COLORADO ESTATE TAX IS DUE AS A RESULT OF ANY FAILURE TO IMPLEMENT THE AGREEMENT DESCRIBED IN SECTION 2031 OF THE INTERNAL REVENUE CODE, INTEREST SHALL ACCRUE FROM THE DUE DATE OF THE FEDERAL ADDITIONAL ESTATE TAX RETURN REGARDLESS OF ANY FEDERAL EXTENSION OF TIME FOR PAYMENT.

SECTION 4. Effective date - applicability. This act shall take effect July 1,

1998 and shall apply to estates of decedents who die on or after January 1, 1998.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 17, 1998